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| APPLICATION NO.                 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/563,422                      | 01/05/2006  | Per Jacobsen         | IPB.021             | 4573             |
| 48234                           | 7590        | 06/02/2009           | EXAMINER            |                  |
| MEREK, BLACKMON & VOORHEES, LLC |             |                      | KATCHEVES, BASIL S  |                  |
| 673 S. WASHINGTON ST            |             |                      |                     |                  |
| ALEXANDRIA, VA 22314            |             |                      | ART UNIT            | PAPER NUMBER     |
|                                 |             |                      | 3635                |                  |
|                                 |             |                      | MAIL DATE           | DELIVERY MODE    |
|                                 |             |                      | 06/02/2009          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/563,422             | JACOBSEN, PER       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | BASIL KATCHEVES        | 3635                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 April 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 18-29 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 18-29 and 31-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/10/09</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

The applicant has cancelled claims 1-17 and 30 and added new claim 36 in the paper dated 4/10/09. Pending claims 18-29 and 31-36 are examined below.

### ***Claim Objections***

The amendment filed 4/10/09 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: self-releasable is not in the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

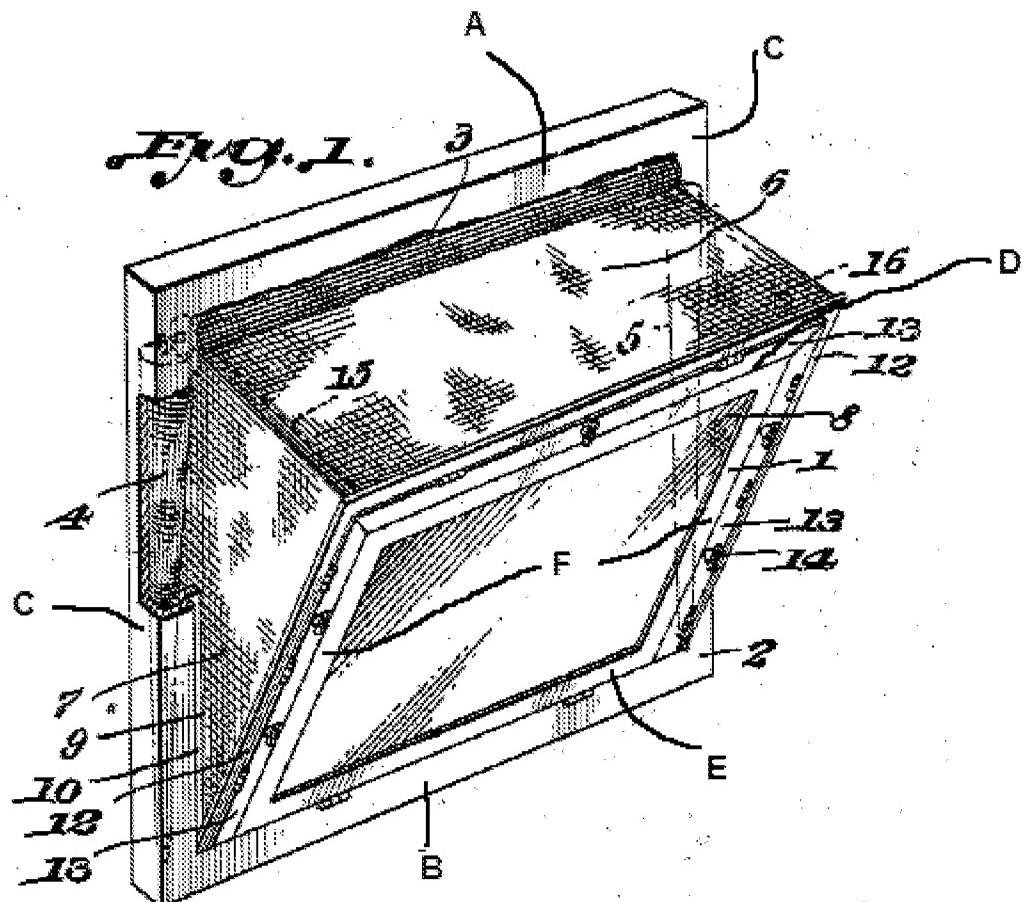
2. **Claims 18, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Persson (US Patent 2,311,413) as in the previous action.**
3. Persson discloses a window (see Fig. 1 below) comprising a frame (2) having a top member (A), a bottom member (B) and two side members (C) defining a frame

Art Unit: 3635

plane; a sash (1) having a top member (D), a bottom member (E) and two side members (F) defining a sash plane; a screening arrangement (7); the sash being connected to the frame by means of at least one hinge (Column 1, lines 58-60) connection to provide a hinge axis substantially parallel with the frame top member and the sash top member, such that the sash may be moved from a closed position to a ventilating position, in which ventilating position the sash plane forms an angle within a limited angle range with the frame plane to provide at least one ventilating Aperture, said screening arrangement covering said at least one ventilating aperture at least partly in the ventilating position; said screening arrangement comprising at least one screening element (7) which in closed position of the window, is arranged in an inactive position at the interface (12 – Fig. 2) between frame and sash, and in the ventilating position spans the ventilating aperture between the frame bottom member and the sash bottom member, and/or between the frame top member (A) and the sash top member (D), and that the at least one screening element is connected with the sash or frame top or bottom member and is in releasable engagement (13) with the corresponding frame or sash member within said limited angle range, wherein said at least one screening element is provided exclusively at the top and/or bottom member of the sash and the frame (as shown in Fig. 1 below); wherein the at least one screening element of the screening arrangement is adapted to be moved automatically from an inactive position corresponding to the closed position of the window to an active position corresponding to the ventilating position, and from the active position to the inactive position when the window is brought from its ventilating position to its closed position (Column 1, lines 16 -

Art Unit: 3635

20); wherein the screening arrangement further comprises interface screening means arranged at the interface between the screening element and the sash side members (F).



#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 20-23, 29 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Persson in view of MacDonald (US Patent 2,093,314) as in the previous action.**

6. Persson discloses the window as set forth above, further comprising wherein the flap is preloaded towards the active position of the screening element by means of a tensioning element such as a coil spring (the spring loaded rollers (3, 4, and 5), but does not disclose wherein the screening element is adapted to be moved automatically from an active position corresponding to the ventilating position to an inactive position when the window is brought past its ventilating position to a more titled position of the sash, wherein the screening arrangement includes at least one screening element formed as a flap connected with the top or bottom member of the frame or the sash by means of a hinge, wherein the flap is adapted to hang freely under the influence of gravity. MacDonald discloses a window wherein the screening element is adapted to be moved automatically from an active position corresponding to the ventilating position to an inactive position when the window is brought past its ventilating position to a more titled position of the sash (sash is tilted past the position shown in Fig. 1, the bottom screen will hang freely as it does in Fig. 2), wherein the screening arrangement includes at least one screening element formed as a flap (5) connected with the top or bottom member of the frame or the sash (2) by means of a hinge (8), wherein the flap is adapted to hang freely under the influence of gravity (Fig. 2). At the time of the

invention, it would have been obvious to one of ordinary skill in the art to provide the window of Persson with a hinged flap that automatically released if moved past the ventilating position in view of the teachings of MacDonald. The motivation for doing so would be to allow more circulation to enter through the window or to possibly use the window as an emergency exit.

Regarding claim 29, Persson discloses the window as set forth above, but does not disclose wherein each of the top and bottom members of the frame and/or sash is provided with a chamfer. MacDonald discloses that the bottom member of the frame (9) is provided with a chamfer (top surface of 9). At the time of the invention it would have been obvious to provide the top and bottom of the window frame of Persson (Fig. 3) with a chamfer in view of the teachings of MacDonald. It would have been considered further obvious to one of ordinary skill in the art, at the time the invention was made, to have the chamfer at the top and bottom of the frame, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. The motivation for doing so would be to allow the sash to more easily fit into the frame, as well as to enlarge the size of the ventilation opening, allowing for more air circulation.

Regarding claim 36, Persson discloses a coiled spring (3) for tensioning.

**7. Claims 31 - 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Persson in view of Camara (US Patent 4,969,291).**

Regarding claims 31-34, Camara discloses wherein sealing means (placed in groove 16 – Fig. 2) at each of the side members of the frame and sash, wherein the

sealing means comprise a sliding seal or a brush element (Column 2, lines 43 – 47 indicate that any suitable weather seal known in the art may be used, such as a sliding seal or a brush element), wherein the sealing means are arranged to seal any gap between overlapping side members of frame and sash in the area between the hinge axis and the screening arrangement (the groove 16, runs all the way from the window sash opening to the hinge as shown in Fig. 2). At the time of the invention it would have been obvious to one of ordinary skill in the art to provide the window of Persson with a sealing means in view of the teachings of Camara. The motivation for doing so would be to prevent insects from entering, as well as to provide better weather insulation when the window is closed.

### **Response to Arguments**

Applicant's arguments filed 4/10/09 have been fully considered but they are not persuasive. The applicant argues the Persson reference does not disclose "releasable engagement" but later states it discloses "detachable connection". The applicant should note that the limitation of "releasable" or "self-releasable" is broad and contains more function than structure. the applicant should note that the prior art may function in a releasable manner and therefore structurally meets the limitations as claimed in the instant application. The applicant also argues that the screening element of the prior art engages the sash in more areas than that of the instant application. However, the applicant should note that just because the prior art screen engages the sash in more ways than the instant application, it does not mean that the limitations are not met. The

prior art may have more engaging features than that of the instant application and still meet the limitations as claimed structurally.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635